

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number 23982-11568
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____		Application Number 10/015,501 First Named Inventor Kerry Champion Art Unit 2145 Filed December 11, 2001 Examiner Adnan M. Mirza
<p>This request requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 45%;"> <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>50,784</u>. <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____ </div> <div style="width: 50%; text-align: right;"> <u>/Jennifer R. Bush/</u> Signature <u>Jennifer R. Bush</u> Typed or printed name <u>(650) 335-7213</u> Telephone number <u>May 13, 2008</u> Date </div> </div>		
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of _____ forms are submitted.</p>		

**IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT: Kerry Champion
SERIAL NO.: 10/015,501
FILING DATE: December 11, 2001
TITLE: Traffic Manager for Distributed Computing Environment
EXAMINER: Adnan M. Mirza
GROUP ART UNIT: 2145
ATTY. DKT. NO.: 23982-11568

CERTIFICATE OF ELECTRONIC (EFS-WEB) TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with 37 C.F.R. § 1.8(a)(i)(C) from the **Pacific Time Zone** of the United States on the local date shown below.

Dated: May 13, 2008

By: /Jennifer R. Bush/

Jennifer R. Bush, Reg. No. 50,784

**REMARKS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW IN U.S. PATENT
APPLICATION NO. 10/015,501 FILED ON 12/11/2001**

Pre-appeal brief review is appropriate in this application, because the rejections in the 2/13/08 Final Office Action contain clear deficiencies. Claims 1-56 were rejected under 35 USC § 103(a) as being unpatentable over Gourraud in view of Arteaga. However, Gourraud and Arteaga, alone or in the combination suggested by the Examiner, fail to disclose, suggest, or render obvious at least a traffic manager to “generate and publish” one or more interfaces “in accordance with [] at least one policy, the at least one policy mapping” between the interfaces, as variously recited in independent claims 1, 17, 33, and 41, and corresponding methods in independent claims 42 and 54.

As a preliminary matter, Applicants note that the Examiner seems to be merely cutting and pasting arguments from his prior actions without ever addressing the arguments presented by

Applicants. The Examiner is attempting to create the appearance of responding to Applicants' arguments by repeating in the "Response to Arguments" section his prior responses to Applicants' prior arguments. For example, in the pending Final Office Action dated 2/13/08, the Examiner indicates on p. 8 that Applicants argued that the prior art did not disclose, "techniques for conduction [sic] online and offline transactions..." and "Traffic manager that can communicate..." (paragraphs B. and C.), as well as that no prima facie case exists (paragraph D.). Applicants note that they did not in fact argue these points in the Amendment dated 11/26/07, to which the Final Office Action dated 2/13/08 is supposed to be responsive.¹

Several of the arguments that Applicants have made, however, have not been addressed by the Examiner. For example, the Examiner never has addressed Applicants' argument that *Gourraud merely discovers pre-existing and pre-configured interfaces supported by the network.* See Amendment 11/26/07, p. 11-12. Applicants note that this argument first was made in the Amendment dated 6/30/06, p. 12. Second, the Examiner also has never addressed Applicants' arguments that *the aspects of Arteaga that the Examiner claims disclose the "generate and publish" step in actuality merely show integration of a web browser into a remote communication device, enabled using predefined protocols such as HTTP and SOAP.* See Amendment 11/26/07, p. 12-13. Applicants note that this argument first was made in the Amendment dated 6/30/07, p. 13. Finally, the Examiner also never addressed Applicants' argument regarding *reliance on hindsight* to construct the combination of Gourraud and Arteaga, first made in the Amendment dated 6/30/06, at p. 11.

Applicants submit that neither Gourraud nor Arteaga, alone or in the combination suggested by the Examiner, disclose, suggest, or render obvious a traffic manager to "generate

¹ In fact, with respect to the first item, this is one of the few things that Applicants indicated that Arteaga "merely discloses." See Amendment dated November 26, 2007 at p. 12, bottom paragraph.

and publish at least a second interface...in accordance with at least one policy, the at least one policy mapping the first interface to the second.”

Applicants also note that the Examiner once again has switched between Gourraud and Arteaga with respect to which he reference he believes shows the element “generate and publish at least a second interface.” In the first Office Action in this case, dated 8/5/05, the Examiner indicated that Gourraud showed this element. In the Office Actions dated 1/30/06 and Advisory Action dated 7/13/06, the Examiner indicated that Arteaga showed this step (*see* Response to Arguments section). This discrepancy was discussed in the Amendment dated 6/30/06 and the Examiner’s Interview of 7/28/06. In the Office Action dated 8/24/07, the Examiner indicated in the main text that Gourraud shows this element and in the Response to Arguments section that Arteaga shows this element. Finally, in the pending Final Office Action, the Examiner has returned to arguing that Gourrand shows this element in the Response to Arguments section. Applicants respectfully request that the Examiner clarify which reference(s) he believes shows this feature, and to refrain from switching back and forth in the absence of arguments on new grounds.

Respectfully Submitted,

Date: May 13, 2008

By: Jennifer R. Bush/
Attorney for Assignee
Jennifer R. Bush, Reg. No. 50,784
FENWICK & WEST LLP
801 California Street
Mountain View, CA 94041
Phone: (650) 335-7213
Fax: (650) 938-5200